

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 1105/2018

Farooq Sheikh S/o Mehboob Sheikh & ors.

..VS..

State of Maharashtra & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.R. Vyas, Advocate for the applicant(s)
Ms. Mrunal Barabde, APP for the non-applicant no. 1

CORAM : Z.A.HAQ, J.
DATED : 10/12/2018

Heard.

The non-applicant no. 2 had filed M.C.A. No. 557/2014 under the Protection of Women From Domestic Violence Act, 2005 against her husband (applicant no. 1). During the pendency of this complaint, the non-applicant no. 2 filed another complaint vide M.C.A. No. 676/2016 under the provisions of the Act of 2005 against her husband, her father-in-law, her husband's brother and wife of brother of her husband. In M.C.A. No. 676/2016, the present applicants had filed an application praying that the complaint be dismissed as it amounts to putting the accused to double jeopardy. The applicants relied on Article 20 (2) of the Constitution of India and Section 300 of the Code of Criminal Procedure. This application was dismissed by the learned Magistrate. The order passed by the learned Magistrate was challenged in criminal appeal which is also dismissed.

Earlier complaint filed by the non-applicant no. 2 i.e. M.C.A. No. 557/2014 is withdrawn by the non-applicant no. 2. In view of the withdrawal of one of the complaint, the contentions raised on behalf of the applicants, relying on Article 20 (2) of the Constitution of India and Section 300 of the Code of Criminal Procedure are not required to be considered. The applicants have raised some other grounds in this criminal application however, I find that those grounds were not raised either before the learned Magistrate or before the Sessions Court. Hence, merits of those contentions are not examined by this Court.

Keeping open for the applicants to agitate the grounds at appropriate stage, this criminal application is **dismissed**. No costs.

JUDGE

Ansari